

A GUIDE TO REMEDIATION FUNDING SOURCE REQUIREMENTS

****This is a guide to the remediation funding source requirements. Please refer to the Oversight Regulations, N.J.A.C. 7:26C-7, for the specific regulatory requirements.***

Any person required to conduct remediation at a contaminated site pursuant to a court order, an administrative consent order, a remediation agreement or a Department approved remedial action Workplan must establish and maintain a remediation funding source in accordance with N.J.S.A. 58:10B-3 and N.J.A.C 7:26C-7.

NOTE: A remediation funding source is not required to be posted for the cost of implementing a Department approved innovative technology or an unrestricted use or limited restricted use remedial action or with an approved property tax exemption pursuant to the Environment Opportunity Zone Act.

CONTACT INFORMATION: All submissions and/or questions should be directed to:

Division of Remediation Support
Oversight Resources Allocation Element
Office of Accountability
401 East State Street, 5th Floor W
Trenton, NJ 08625
Attn: Remediation Funding Source Administrator
FAX:(609) 633-1439
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TYPES OF REMEDIATION FUNDING SOURCES

I. LINE OF CREDIT: Allows a person establishing it to borrow money up to a limit established in a written agreement in order to pay for the cost of the remediation. The line of credit signifies a limit of credit extended by a financial institution to its customer, to the full extent of which the customer may avail itself in its dealing with the financial institution.

- A. Issuer of a Line of Credit: an entity licensed by the New Jersey Department of Banking and Insurance or a Federally regulated bank.
- B. Language of a Line of Credit: See Model document.
- C. Submission of Line of Credit: the Line of Credit Agreement must be submitted within fourteen (14) days of receipt of an ISRA remedial action workplan approval or execution of a remediation agreement; with signed copies of an administrative consent order; or as provided in an administrative order, directive, court order or other judicial settlement.

II. ENVIRONMENTAL INSURANCE POLICY: a contract whereby an insurer agrees, in return for premiums, on happenings of designated events, to pay certain sums as provided.

- A. Issuer of an Environmental Insurance Policy: an entity licensed by the Department of Insurance to transact business in the State of New Jersey.
- B. Language of an Environmental Insurance Policy: No Model available.

Environmental Insurance Policy must contain the following provisions:

- 1. The Policy may not be revoked or terminated without written consent of the Department;
 - 2. Insurer shall only disburse funds that the Department approves in writing in accordance with N.J.A.C 7:26C-7.10;
 - 3. The funds in the policy will be solely utilized for the purposes of conducting the remediation; and
 - 4. The Department is the sole beneficiary to the policy.
- C. Submission of an Environmental Insurance Policy: an Environmental Insurance Policy must be submitted within thirty (30) days of receipt of an ISRA remedial action workplan approval, execution of a remediation agreement; with signed copies of an administrative consent order; or as provided in an administrative order, directive, court order or other judicial settlement.

III. REMEDIATION TRUST FUND: a fund held by a trustee for the purpose of providing funds for the remediation of a site.

- A. Issuer of a Remediation Trust Fund: an entity which has the authority to act as a trustee and whose trust operations are regulated and examined by a Federal or New Jersey Agency.
- B. Language of a Remediation Trust Fund: See Model document.

C. Submission of a Remediation Trust Fund: a Remediation Trust Fund Agreement shall be submitted within fourteen (14) days of receipt of an ISRA remedial action workplan approval or execution of a remediation agreement; with signed copies of an administrative consent order; or as provided in an administrative order, directive, court order or other judicial settlement.

IV. SELF-GUARANTEE: allows a responsible person to prove to the Department that it has the sufficient funds for the remediation of a site.

A. Self-Guarantor: Person responsible for the remediation at the site or signatory to a Remediation Agreement or Administrative Consent Order.

B. Self-Guarantee Requirements: See Self-Guarantee application.

C. Submission of Self-Guarantee

A self-guarantee application must be submitted:

- with an application for a remediation agreement;
- upon submission of a remedial action workplan;
- with signed copies of an Administrative Consent Order; or
- as provided in a Administrative Order, directive, court order or other judicial settlement.

AMOUNT OF REMEDIATION FUNDING SOURCE TO BE POSTED

In an amount equal to or greater than the estimated cost to implement the remediation, including, without limitation, the estimated cost of monitoring and maintaining all necessary engineering and institutional controls.

REQUESTS FOR DISBURSEMENTS FROM THE FUNDING SOURCE*

A person who has established either a remediation trust fund, an environmental insurance policy or a line of credit may submit to the Department (**to the ASSIGNED CASE MANAGER**) **once every three months** a written request to use the remediation funding source to pay for the actual remediation costs, which includes the following information:

1. Identification of the site, including name, address, case number (if applicable), Masterfile ID number and program interest number if known, and status of the remediation;

2. An updated, detailed estimate of implementing the remediation including without limitation the estimated cost of maintaining and monitoring all necessary

engineering and institutional controls;

3. A detailed description, including documentation, of remediation costs incurred and the specific remediation that has been completed;

4. A detailed description, including documentation, of remediation costs to be incurred and the specific remediation that will be completed under this request; and

5. The amount of the disbursement requested based on 3 and 4 above and the remediation remaining to be completed at the site.

Within thirty (30) calendar days after the Department's receipt of the written request submitted, the Department will review the request and respond as follows:

1. The information is complete and the disbursement amount represents actual remediation costs therefore the disbursement is approved;

2. The information is complete, however, the requested disbursement amount includes remediation costs that the Department has not approved, and therefore, the Department will only disburse funds for the approved remediation costs; or

3. The information is incomplete, indicating the missing information, and the Department will not give further consideration to the disbursement request until the requester submits all the required information.

*The Department is currently developing a standard application form to be used in requesting reductions to the remediation funding source.

CHANGES IN THE REMEDIATION FUNDING SOURCE AMOUNT

The person required to establish a remediation funding source may at any time submit to the Department (**to the ASSIGNED CASE MANAGER**) a request to approve a reduction in the amount of the remediation funding source, along with a revised remediation cost estimate.

(a) The Department will respond to requests within ninety (90) calendar days after the Department's receipt of such request.

(b) Upon receipt of a written approval from the Department, the person required to establish the remediation funding source may decrease the remediation funding source amount to an amount equal to the amount approved by the Department.

(c) The person required to establish the remediation funding source shall increase the remediation funding source amount to an amount equal to the revised cost estimate of the remediation within thirty (30) calendar days after:

1. Completion of the remediation cost review required pursuant to N.J.A.C. 7-26C-5; or,
2. Execution of a remediation agreement pursuant to the Industrial Site Recovery Act Rule, N.J.A.C. 7:26B; or
3. Receipt of written notice from the Department that the cost of the remediation has increased.

REMEDIATION FUNDING SOURCE SURCHARGE

There is imposed on every person who is required to establish and maintain a remediation funding source a remediation funding source surcharge in amount equal to 1% of the required Remediation Funding Source pursuant to N.J.S.A. 58:10B-11 and N.J.A.C. 7:26C-7.8. This amount is payable by cashier's or certified check to:

"New Jersey Economic Development Authority (NJEDA) - Hazardous Discharge Remediation Fund"

The 1% Surcharge is to be submitted within thirty (30) calendar days after the effective date of the oversight document, receipt of the Department's approval of a remedial action workplan or court order. A 1% surcharge payment is due annually thereafter on the same date.

NOTE: No Surcharge shall be paid on any portion of the remediation funding source provided in the form of Self-Guarantee and/or a loan or grant.